

By: Huberty

H.B. No. 2000

A BILL TO BE ENTITLED

AN ACT

relating to the funding of utility reliability projects by the Texas Water Development Board and other entities; authorizing the issuance of revenue bonds, granting rulemaking authority, and making an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) The legislature recognizes the importance of providing for the reliability of this state's public utilities. The purpose of this Act is to ensure that proper funding in the form of meaningful and adequate financial assistance is available to enhance the reliability of water, electricity, natural gas, and broadband utilities for this state by supporting projects to weatherize facilities and to provide adequate capacity during periods of high demand.

(b) To accomplish that purpose, this Act creates the state utilities reliability fund. The fund is intended to serve as a utility infrastructure bank in order to enhance the financing capabilities of the Texas Water Development Board under a constitutionally created program and a revenue bond program. Money in the fund will be available immediately to provide support for market rate loans, low-interest loans, longer repayment terms for loans, and deferral of loan payments. Money in the fund may not be used to make grants. In addition, this Act creates the state utilities reliability revenue fund for use in managing revenue

1 bonds issued by the board that are supported by the state utilities
2 reliability fund.

3 SECTION 2. Title 2, Water Code, is amended by adding
4 Subtitle G to read as follows:

5 SUBTITLE G. RELIABILITY OF STATE UTILITIES

6 CHAPTER 38 GENERAL PROVISIONS

7 Sec. 38.001. DEFINITIONS. In this subtitle:

8 (1) "Advisory committee" means the State Utilities
9 Reliability Fund Advisory Committee.

10 (2) "Board" means the Texas Water Development Board.

11 (3) "Broadband utility" means any person, corporation,
12 municipality, political subdivision or agency that owns or
13 operates for compensation in this state equipment or facilities to
14 provide broadband telecommunications capability and Internet
15 access in this state.

16 (4) "Electric utility" means any person, corporation,
17 municipality, political subdivision or agency that owns or
18 operates for compensation in this state equipment or facilities to
19 produce, generate, transmit, distribute, sell, or furnish
20 electricity in this state.

21 (5) "Executive administrator" means the executive
22 administrator of the Texas Water Development Board.

23 (6) "Facilities" means all of the plant and equipment of
24 an electric, natural gas, water, or broadband utility and includes
25 the tangible and intangible property, without limitation, owned,
26 operated, leased, licensed, used, controlled, or supplied for, by,
27 or in connection with the business of the electric, natural gas,
28 water or broadband utility in this state.

29 (7) "Fund" means the state utilities reliability fund.

30 (8) "Historically underutilized business" has the

1 meaning assigned by Section 2161.001, Government Code.

2 (9) "Natural gas utility" means any person, corporation,
3 municipality, political subdivision or agency that owns or
4 operates for compensation in this state equipment or facilities to
5 transmit or distribute combustible hydrocarbon natural gas or
6 synthetic natural gas for sale or resale in a manner not subject
7 to the jurisdiction of the Federal Energy Regulatory Commission
8 under the Natural Gas Act (15 U.S.C. Section 717 et seq.).

9 (10) "Revenue fund" means the state utilities
10 reliability revenue fund.

11 (11) "Trust company" means the Texas Treasury
12 Safekeeping Trust Company.

13 (12) "Water utility" means any person, corporation,
14 municipality, political subdivision or agency operating,
15 maintaining, or controlling in this state facilities for providing
16 potable water service or sewer service, or both, for compensation.

17 CHAPTER 39. STATE UTILITIES RELIABILITY FUND

18 Sec. 39.001. FUND. (a) The state utilities reliability
19 fund is a special fund in the state treasury outside the general
20 revenue fund to be used by the board, without further legislative
21 appropriation, for the purpose of financing projects that enhance
22 the reliability of water, electricity, natural gas and broadband
23 utilities in this state by supporting projects to weatherize
24 facilities and to provide adequate capacity during periods of high
25 demand. The board may establish separate accounts in the fund.
26 The fund and the fund's accounts are kept and held by the trust
27 company for and in the name of the board. The board has legal
28 title to money and investments in the fund until money is disbursed
29 from the fund as provided by this chapter and board rules. It is
30 the intent of the legislature that the fund will never be used:

1 (1) for a purpose other than the support of projects
2 that enhance the reliability of water, electricity, natural gas
3 and broadband utilities in this state and to pay expenses
4 authorized by section 39.003; or

5 (2) to certify that appropriations from the treasury
6 are within the amount estimated to be available in a fund of the
7 treasury affected by the appropriation.

8 (b) Money deposited to the credit of the fund may be used
9 only as provided by this chapter.

10 (c) The fund consists of:

11 (1) money transferred or deposited to the credit of the
12 fund by law, including appropriations and money from any source
13 transferred or deposited to the credit of the fund at the board's
14 discretion as authorized by law;

15 (2) the proceeds of any fee or tax imposed by this state
16 that by statute is dedicated for deposit to the credit of the fund;

17 (3) any other revenue that the legislature by statute
18 dedicates for deposit to the credit of the fund;

19 (4) investment earnings and interest earned on amounts
20 credited to the fund; and

21 (5) money transferred to the fund under a bond
22 enhancement agreement from another fund or account to which money
23 from the fund was transferred under a bond enhancement agreement,
24 as authorized by Section 39.004.

25 Sec. 39.002. MANAGEMENT AND INVESTMENT OF FUND. (a) The
26 trust company shall hold and invest the fund, and any accounts
27 established in the fund, for and in the name of the board, taking
28 into account the purposes for which money in the fund may be used.
29 The fund may be invested with the state treasury pool.

30 (b) The overall objective for the investment of the fund is

1 to maintain sufficient liquidity to meet the needs of the fund
2 while striving to preserve the purchasing power of the fund.

3 (c) The trust company has any power necessary to accomplish
4 the purposes of managing and investing the assets of the fund. In
5 managing the assets of the fund, through procedures and subject to
6 restrictions the trust company considers appropriate, the trust
7 company may acquire, exchange, sell, supervise, manage, or retain
8 any kind of investment that a prudent investor, exercising
9 reasonable care, skill, and caution, would acquire or retain in
10 light of the purposes, terms, distribution requirements, and other
11 circumstances of the fund then prevailing, taking into
12 consideration the investment of all the assets of the fund rather
13 than a single investment.

14 (d) The trust company may charge fees to cover its costs
15 incurred in managing and investing the fund. The fees must be
16 consistent with the fees the trust company charges other state and
17 local governmental entities for which it provides investment
18 management services. The trust company may recover fees it charges
19 under this subsection only from the earnings of the fund.

20 (e) The trust company shall provide an annual report to the
21 board and to the advisory committee with respect to the investment
22 of the fund. The trust company shall contract with a certified
23 public accountant to conduct an independent audit of the fund
24 annually and shall present the results of each annual audit to the
25 board and to the advisory committee. This subsection does not
26 affect the state auditor's authority to conduct an audit of the
27 fund under Chapter 321, Government Code.

28 (f) The trust company shall adopt a written investment
29 policy that is appropriate for the fund. The trust company shall
30 present the investment policy to the investment advisory board

1 established under Section 404.028, Government Code. The
2 investment advisory board shall submit to the trust company
3 recommendations regarding the policy.

4 (g) The board shall provide to the trust company an annual
5 forecast of the cash flows into and out of the fund. The board
6 shall provide updates to the forecasts as appropriate to ensure
7 that the trust company is able to achieve the objective specified
8 by Subsection (b).

9 (h) The trust company shall disburse money from the fund as
10 directed by the board. The board shall direct disbursements from
11 the fund on a semiannual schedule specified by the board and not
12 more frequently than twice in any state fiscal year.

13 (i) An investment-related contract entered into under this
14 section is not subject to Chapter 2260, Government Code.

15 Sec. 39.003. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS
16 OR ACCOUNTS. (a) At the direction of the board, the trust company
17 shall make disbursements from the fund to the state utilities
18 reliability revenue fund pursuant to a bond enhancement agreement
19 authorized by Section 39.004 in the amounts the board determines
20 are needed for debt service payments on or security provisions of
21 the board's revenue bonds, after considering all other sources
22 available for those purposes.

23 (b) The fund may be used only:

24 (1) to enhance the reliability of water, electricity,
25 natural gas and broadband utilities for this state by supporting
26 projects to weatherize facilities and to provide adequate capacity
27 to ensure continuous and adequate service during periods of high
28 demand; and

29 (2) to pay the necessary and reasonable expenses of the
30 board in administering the fund.

1 (c) notwithstanding any other provision in this chapter, the
2 use of the fund may be prioritized based on future legislative
3 directives, including any statewide utility reliability plan
4 required in the future.

5 Sec. 39.004. BOND ENHANCEMENT AGREEMENTS. (a) A bond
6 enhancement agreement entered into under this section is an
7 agreement for professional services. A bond enhancement agreement
8 must contain terms that are consistent with Section 39.002(h), and
9 the agreement, including the period covered by the agreement and
10 all other terms and conditions of the agreement, must be approved
11 by the board. An obligation to disburse money from the fund, or
12 from a special account established by the board, in accordance
13 with a bond enhancement agreement is a special obligation of the
14 board payable solely from designated income and receipts of the
15 fund or of the account, as determined by the board. An obligation
16 to disburse money from the fund, or from a special account
17 established by the board, in accordance with a bond enhancement
18 agreement does not constitute indebtedness of the state.

19 (b) To facilitate the use of the fund for the purposes of
20 this chapter, the board may direct the trust company to enter into
21 bond enhancement agreements to:

22 (1) provide a source of revenue or security for the
23 payment of the principal of and interest on revenue bonds issued
24 by the board to finance, or

25 (2) refinance projects authorized by chapter 40 of this
26 title.

27 (c) If the trust company enters into a bond enhancement
28 agreement under Subsection (b), the board may direct the trust
29 company to make disbursements from the fund to provide financial
30 assistance for a project authorized by this chapter or by chapter

1 40 of this title in the form of:

2 (1) a loan bearing an interest rate of not less than 50
3 percent of the then-current market rate of interest available to
4 the board;

5 (2) a loan to finance a facility under repayment terms
6 similar to the terms of debt customarily issued by the entity
7 requesting assistance but not to exceed the lesser of:

8 (A) the expected useful life of the facility; or

9 (B) 30 years;

10 (3) a deferral of loan repayment, including deferral of
11 the repayment of:

12 (A) principal and interest; or

13 (B) accrued interest; or

14 (4) a combination of the methods of financing described
15 by Subdivisions (1)-(3).

16 (d) The board may direct the trust company to enter into
17 bond enhancement agreements with respect to refunding bonds issued
18 by the board to refund bonds issued by the board the proceeds of
19 which have been or are to be used for projects authorized by this
20 chapter and which otherwise satisfied the requirements of
21 Subsections (b) and (c).

22 (f) The board may not direct the trust company to enter into
23 a bond enhancement agreement with respect to bonds issued by the
24 board the proceeds of which have been or are to be used to make
25 grants.

26 (g) The board may not direct the trust company to enter into
27 a bond enhancement agreement with respect to bonds issued by the
28 board the proceeds of which may be used to provide financial
29 assistance to an applicant if at the time of the request the
30 applicant has failed to satisfactorily complete a request by the

1 executive administrator for information relevant to the project
2 for which the financial assistance is sought.

3 (h) The board may not direct the trust company to enter into
4 a bond enhancement agreement with respect to bonds issued by the
5 board the proceeds of which may be used to provide financial
6 assistance to an applicant unless at the time of the request the
7 applicant has acknowledged its legal obligation to comply with any
8 applicable requirements of:

9 (1) federal law relating to contracting with
10 disadvantaged business enterprises; and

11 (2) state law relating to contracting with historically
12 underutilized businesses.

13 (i) The board may not approve a bond enhancement agreement
14 unless the agreement contains a provision to the effect that if
15 the trust company makes a disbursement under the bond enhancement
16 agreement from the fund to the credit of the state utilities
17 reliability revenue fund as provided by Section 39.003(a), the
18 board may direct the comptroller to transfer an amount not to
19 exceed that amount from the state utilities reliability revenue
20 fund back to the fund if:

21 (1) money is certified by the executive director to be
22 a surplus balance in the state utilities reliability revenue fund
23 for that purpose; and

24 (2) the money transferred back to the fund will not
25 cause bonds that are payable from the state utilities reliability
26 revenue fund to rate below the highest rating category for any
27 bonds outstanding.

28 (j) For purposes of Subsection (i)(1), the surplus balance
29 of the state utilities reliability revenue fund is the amount of
30 money on deposit in the fund, as determined by the board, that is

1 attributable to the revenue bonds, including money received from
2 the sale or other disposition of the board's rights to receive
3 repayment of financial assistance, money received from the sale of
4 utilities associated with a modified facility, and related
5 investment earnings, that exceeds the amount required to pay annual
6 debt service on the bonds and any other amounts specified in the
7 resolution or other proceedings authorizing the bonds and any
8 related obligations.

9 (k) The board shall submit each bond enhancement agreement
10 and the record relating to the agreement to the attorney general
11 for examination as to the validity of the agreement. If the
12 attorney general finds that the agreement has been made in
13 accordance with the constitution and other laws of this state, the
14 attorney general shall approve the agreement and the comptroller
15 shall register the agreement. If the agreement is not submitted
16 at the same time that the bonds to which it relates are submitted,
17 the agreement shall be treated as a public security solely for the
18 purposes of Section 1202.004, Government Code.

19 (l) After a bond enhancement agreement has been approved and
20 registered as provided by Subsection (k), the agreement is valid
21 and is incontestable for any cause.

22 (m) At the direction of the board, the trust company shall
23 make disbursements from the fund, or from a special account
24 established by the board, in accordance with a bond enhancement
25 agreement in the amounts the board determines are needed for debt
26 service payments on, or for security provisions of, revenue bonds
27 issued by the board the proceeds of the sale of which have been
28 deposited in the state utilities reliability revenue fund, or in
29 an account in that fund, for use in accordance with this chapter,
30 after the board considers all other sources available for those

1 purposes in that fund or account. Money transferred under this
2 subsection may be deposited into that fund or into a special
3 account established by the trust company or a corporate trustee
4 that is a trust company or a bank that has the powers of a trust
5 company, as determined by the board.

6 Sec. 39.005. PRIORITIZATION OF PROJECTS BY BOARD. (a) The
7 board, for the purpose of providing financial assistance under
8 this chapter, shall prioritize projects that enhance the
9 reliability of water, electricity, natural gas and broadband
10 utilities for this state.

11 (b) The board shall establish a point system for
12 prioritizing projects for which financial assistance is sought
13 from the board. The system must include a standard for the board
14 to apply in determining whether a project qualifies for financial
15 assistance at the time the application for financial assistance is
16 filed with the board.

17 (c) The board shall give the highest consideration in
18 awarding points to projects that will have a substantial effect,
19 including projects that will:

20 (1) weatherize facilities to protect against cold
21 weather; and

22 (2) create excess capacity that will be used during
23 periods of high demand to provide continuous and adequate electric,
24 natural gas, water and broadband service.

25 (d) In addition to the criteria provided by Subsection (c),
26 the board must also consider at least the following criteria in
27 prioritizing projects:

28 (1) other contributions to be made to finance the
29 project, including the up-front capital to be provided by the
30 applicant;

1 (2) the financial capacity of the applicant to repay
2 the financial assistance provided;

3 (3) the ability of the board and the applicant to timely
4 leverage state financing with local, federal or private funding;

5 (4) whether there is an emergency need for the project,
6 taking into consideration whether federal funding for which the
7 project is eligible has been used or sought; and

8 (5) whether the applicant is ready to proceed with the
9 project at the time of the application, including whether:

10 (A) all preliminary planning and design work
11 associated with the project has been completed;

12 (B) the applicant has acquired any necessary
13 rights associated with the project;

14 (C) the applicant has secured funding for the
15 project from other sources; and

16 (D) the applicant is able to begin implementing or
17 constructing the project.

18 Sec. 39.006. ADVISORY COMMITTEE. (a) The State Utilities
19 Reliability Fund Advisory Committee is composed of the following
20 seven members:

21 (1) the comptroller, or a person designated by the
22 comptroller;

23 (2) three members of the senate appointed by the
24 lieutenant governor, including:

25 (A) a member of the committee of the senate having
26 primary jurisdiction over matters relating to finance; and

27 (B) a member of the committee of the senate having
28 primary jurisdiction over natural resources; and

29 (3) three members of the house of representatives
30 appointed by the speaker of the house of representatives,

1 including:

2 (A) a member of the committee of the house of
3 representatives having primary jurisdiction over appropriations;
4 and

5 (B) a member of the committee of the house of
6 representatives having primary jurisdiction over natural
7 resources.

8 (b) Board staff shall provide staff support for the advisory
9 committee.

10 (c) An appointed member of the advisory committee serves at
11 the will of the person who appointed the member.

12 (d) The lieutenant governor shall appoint a co-presiding
13 officer of the advisory committee from among the members appointed
14 by the lieutenant governor, and the speaker of the house of
15 representatives shall appoint a co-presiding officer of the
16 committee from among the members appointed by the speaker.

17 (e) The advisory committee may hold public hearings, formal
18 meetings, or work sessions. Either co-presiding officer of the
19 advisory committee may call a public hearing, formal meeting, or
20 work session of the advisory committee at any time. The advisory
21 committee may not take formal action at a public hearing, formal
22 meeting, or work session unless a quorum of the committee is
23 present.

24 (f) Except as otherwise provided by this subsection, a
25 member of the advisory committee is not entitled to receive
26 compensation for service on the committee or reimbursement for
27 expenses incurred in the performance of official duties as a member
28 of the committee. Service on the advisory committee by a member
29 of the senate or house of representatives is considered legislative
30 service for which the member is entitled to reimbursement and other

1 benefits in the same manner and to the same extent as for other
2 legislative service.

3 (g) The advisory committee shall submit comments and
4 recommendations to the board regarding the use of money in the
5 fund and in the revenue fund for use by the board in adopting rules
6 under Section 39.007 and in adopting policies and procedures under
7 Section 39.009. The submission must include:

8 (1) comments and recommendations on rulemaking related
9 to the prioritization of projects in accordance with Section
10 39.005;

11 (2) comments and recommendations on rulemaking related
12 to establishing standards for determining whether projects meet
13 the criteria provided by Section 39.003(b);

14 (3) an evaluation of the available programs for
15 providing financing for projects authorized by this chapter and
16 guidelines for implementing those programs;

17 (4) an evaluation of the lending practices of the board
18 and guidelines for lending standards;

19 (5) an evaluation of the use of funds by the board to
20 provide support for financial assistance for projects that enhance
21 the reliability of water, electricity, natural gas and broadband
22 utilities for this state, including support for the purposes
23 described by Section 39.004(c);

24 (6) an evaluation of whether premium financing programs
25 should be established within the funds described by Section 39.004
26 to serve the purposes of this chapter, especially in connection
27 with projects described by Section 39.003(b);

28 (7) an evaluation of methods for encouraging
29 participation in the procurement process by companies domiciled in
30 this state or that employ a significant number of residents of

1 this state; and

2 (8) an evaluation of the overall operation, function,
3 and structure of the fund.

4 (h) The advisory committee shall review the overall
5 operation, function, and structure of the fund at least
6 semiannually and may provide comments and recommendations to the
7 board on any matter.

8 (i) The advisory committee may adopt rules, procedures, and
9 policies as needed to administer this section and implement its
10 responsibilities.

11 (j) Chapter 2110, Government Code, does not apply to the
12 size, composition, or duration of the advisory committee.

13 (k) The advisory committee is subject to Chapter 325,
14 Government Code (Texas Sunset Act). Unless continued in existence
15 as provided by that chapter, the advisory committee is abolished
16 and this section expires September 1, 2035.

17 (l) The advisory committee shall make recommendations to the
18 board regarding information to be posted on the board's Internet
19 website under Section 39.008(b).

20 (m) The advisory committee shall evaluate and may provide
21 comments or recommendations on the feasibility of the state owning,
22 constructing, and operating water, electricity, natural gas or
23 broadband utilities.

24 (n) The executive administrator shall provide an annual
25 report to the advisory committee on:

26 (1) the board's compliance with statewide annual goals
27 relating to historically underutilized businesses; and

28 (2) the participation level of historically
29 underutilized businesses in projects that receive funding related
30 to a bond enhancement agreement under this chapter.

1 (o) If the aggregate level of participation by historically
2 underutilized businesses in projects that receive funding related
3 to a bond enhancement agreement under this chapter does not meet
4 statewide annual goals adopted under Chapter 2161, Government
5 Code, the advisory committee shall make recommendations to the
6 board to improve the participation level.

7 Sec. 39.007. RULES. (a) The board shall adopt rules
8 providing for the use of money in the fund that are consistent
9 with this chapter, including rules:

10 (1) establishing standards for determining whether
11 projects meet the criteria provided by Section 39.003(b); and

12 (2) specifying the manner for prioritizing projects for
13 purposes of Section 39.005.

14 (b) The board shall give full consideration to the
15 recommendations of the advisory committee before adopting rules
16 under this chapter.

17 Sec. 39.008. REPORTING AND TRANSPARENCY REQUIREMENTS. (a)
18 Not later than December 1 of each even-numbered year, the board
19 shall provide a report to the governor, lieutenant governor,
20 speaker of the house of representatives, and members of the
21 legislature regarding the use of the fund.

22 (b) The board shall post the following information on the
23 board's Internet website regarding the use of the fund and
24 regularly update the information posted:

25 (1) the progress made in enhancing the reliability of
26 water, electricity, natural gas and broadband utilities for this
27 state; and

28 (2) a description of each project funded through bonds
29 supported by a bond enhancement agreement entered into under
30 Section 39.004, including:

1 (A) the expected date of completion of the
2 project; and

3 (B) the current status of the project.

4 Sec. 39.009. POLICIES AND PROCEDURES TO MITIGATE OR MINIMIZE
5 ADVERSE EFFECTS OF CERTAIN FEDERAL LAWS. The board shall adopt,
6 and may amend from time to time at the board's discretion, policies
7 and procedures for the purpose of mitigating or minimizing the
8 adverse effects, if any, of federal laws and regulations relating
9 to income taxes, arbitrage, rebates, and related matters that may
10 restrict the board's ability to freely invest all or part of the
11 fund or to receive and retain all the earnings from the fund.

12 CHAPTER 40. STATE UTILITIES RELIABILITY REVENUE FUND

13 Sec. 40.001. FUND. (a) The state utilities reliability
14 revenue fund is a special fund in the state treasury outside the
15 general revenue fund to be a revolving finance program used by the
16 board, without further legislative appropriation, only for the
17 purpose of providing financing for projects that enhance the
18 reliability of water, electricity, natural gas and broadband
19 utilities for this state by supporting projects to weatherize
20 facilities and to provide adequate capacity during periods of high
21 demand. The board may establish separate accounts in the revenue
22 fund. The board has legal title to money and investments in the
23 revenue fund until the money is disbursed as provided by this
24 chapter and board rules. It is the intent of the legislature that
25 the revenue fund will never be used:

26 (1) for a purpose other than the support of projects
27 that enhance the reliability of water, electricity, natural gas
28 and broadband utilities for this state; or

29 (2) to certify that appropriations from the treasury
30 are within the amount estimated to be available in a fund of the

1 treasury affected by the appropriation.

2 (b) Money deposited to the credit of the revenue fund may be
3 used only as provided by this chapter.

4 (c) The revenue fund consists of:

5 (1) money transferred or deposited to the credit of the
6 revenue fund by law, including appropriations and money from any
7 source transferred or deposited to the credit of the revenue fund
8 at the board's discretion as authorized by law;

9 (2) the proceeds of any fee or tax imposed by this state
10 that by statute is dedicated for deposit to the credit of the
11 revenue fund;

12 (3) any other revenue that the legislature by statute
13 dedicates for deposit to the credit of the revenue fund;

14 (4) investment earnings and interest earned on amounts
15 credited to the revenue fund;

16 (5) the proceeds from the sale of revenue bonds, issued
17 by the board under this chapter, that are designated by the board
18 for the purpose of providing money for the revenue fund;

19 (6) repayments of loans made from the revenue fund; and

20 (7) money disbursed to the revenue fund from the state
21 utilities reliability fund as authorized by Section 39.003.

22 Sec. 40.002. MANAGEMENT AND INVESTMENT OF REVENUE FUND. (a)
23 Money deposited to the credit of the revenue fund shall be invested
24 as determined by the board. The revenue fund may be invested with
25 the state treasury pool.

26 (b) The revenue fund and any accounts established in the
27 revenue fund shall be kept and maintained by or at the direction
28 of the board.

29 (c) At the direction of the board, the revenue fund and any
30 accounts established in the revenue fund may be managed by the

1 comptroller or a corporate trustee that is a trust company or a
2 bank that has the powers of a trust company for and on behalf of
3 the board and pending their use for the purposes provided by this
4 chapter may be invested as provided by an order, resolution, or
5 rule of the board.

6 (d) The comptroller or corporate trustee shall manage the
7 revenue fund in strict accordance with this chapter and the orders,
8 resolutions, and rules of the board.

9 Sec. 40.003. USE OF REVENUE FUND. (a) Except as provided
10 by Subsection (c), money in the revenue fund may be used by the
11 board only to provide financing or refinancing, under terms
12 specified by the board, for projects that enhance the reliability
13 of water, electricity, natural gas and broadband utilities for
14 this state by weatherizing facilities or by providing adequate
15 capacity during periods of high demand.

16 (b) Financing or refinancing of projects described by
17 Subsection (a) may be provided by using money in the revenue fund
18 to make loans to eligible water, electric, natural gas and
19 broadband utilities or to purchase bonds or other obligations of
20 eligible water, electric, natural gas and broadband utilities
21 bearing interest at a rate or rates determined by the board,
22 including a rate at or rates below prevailing market rates.

23 (c) The board may use money in the revenue fund:

24 (1) as a source of revenue or security for:

25 (A) the payment of the principal of and interest
26 on revenue bonds issued by the board under this chapter; or

27 (B) a bond enhancement agreement; or

28 (2) to pay the necessary and reasonable expenses of
29 paying agents, bond counsel, and financial advisory services and
30 similar costs incurred by the board in administering the revenue

1 fund.

2 (d) The board, or comptroller or corporate trustee managing
3 the revenue fund at the direction of the board as provided by
4 Section 40.003(c), shall withdraw from the revenue fund and forward
5 to another person any amounts, as determined by the board, for
6 timely payment of:

7 (1) the principal of and interest on bonds described by
8 Subsection (c)(1)(A) of this section that mature or become due;
9 and

10 (2) any cost related to bonds described by Subsection
11 (c)(1)(A) of this section that become due, including payments under
12 related credit agreements or bond enhancement agreements.

13 Sec. 40.004. ISSUANCE OF REVENUE BONDS. (a) The board may
14 issue revenue bonds for the purpose of providing money for the
15 revenue fund.

16 (b) The board may issue revenue bonds to refund revenue bonds
17 or bonds and obligations issued or incurred in accordance with
18 other provisions of law.

19 (c) Revenue bonds issued under this chapter are special
20 obligations of the board payable only from and secured by
21 designated income and receipts of the revenue fund, or of one or
22 more accounts in the revenue fund, including principal of and
23 interest paid and to be paid on revenue fund assets or income from
24 accounts created within the revenue fund by the board, as
25 determined by the board.

26 (d) Revenue bonds issued under this chapter do not
27 constitute indebtedness of the state as prohibited by the
28 constitution.

29 (e) The board may require revenue fund participants to make
30 charges, levy taxes, or otherwise provide for sufficient money to

1 pay acquired obligations.

2 (f) Revenue bonds issued under this chapter must be
3 authorized by resolution of the board and must have the form and
4 characteristics and bear the designations as the resolution
5 provides.

6 (g) Revenue bonds issued under this chapter may:

7 (1) bear interest at the rate or rates payable annually
8 or otherwise;

9 (2) be dated;

10 (3) mature at the time or times, serially, as term
11 revenue bonds, or otherwise in not more than 50 years from their
12 dates;

13 (4) be callable before stated maturity on the terms and
14 at the prices, be in the denominations, be in the form, either
15 coupon or registered, carry registration privileges as to
16 principal only or as to both principal and interest and as to
17 successive exchange of coupon for registered bonds or one
18 denomination for bonds of other denominations, and successive
19 exchange of registered revenue bonds for coupon revenue bonds, be
20 executed in the manner, and be payable at the place or places
21 inside or outside the state, as provided by the resolution;

22 (5) be issued in temporary or permanent form;

23 (6) be issued in one or more installments and from time
24 to time as required and sold at a price or prices and under terms
25 determined by the board to be the most advantageous reasonably
26 obtainable; and

27 (7) be issued on a parity with and be secured in the
28 manner as other revenue bonds authorized to be issued by this
29 chapter or may be issued without parity and secured differently
30 than other revenue bonds.

1 (h) Section 17.955 applies to revenue bonds issued under
2 this chapter in the same manner as that section applies to water
3 financial assistance bonds.

4 (i) All proceedings relating to the issuance of revenue
5 bonds issued under this chapter shall be submitted to the attorney
6 general for examination. If the attorney general finds that the
7 revenue bonds have been authorized in accordance with law, the
8 attorney general shall approve the revenue bonds, and the revenue
9 bonds shall be registered by the comptroller. After the approval
10 and registration, the revenue bonds are incontestable in any court
11 or other forum for any reason and are valid and binding obligations
12 in accordance with their terms for all purposes.

13 (j) The proceeds received from the sale of revenue bonds
14 issued under this chapter may be deposited or invested in any
15 manner and in such investments as may be specified in the
16 resolution or other proceedings authorizing those obligations.
17 Money in the revenue fund or accounts created by this chapter or
18 created in the resolution or other proceedings authorizing the
19 revenue bonds may be invested in any manner and in any obligations
20 as may be specified in the resolution or other proceedings.

21 Sec. 40.005. CHAPTER CUMULATIVE OF OTHER LAWS. (a) This
22 chapter is cumulative of other laws on the subject, and the board
23 may use provisions of other applicable laws in the issuance of
24 bonds and other obligations and the execution of bond enhancement
25 agreements, but this chapter is wholly sufficient authority for
26 the issuance of bonds and other obligations, the execution of bond
27 enhancement agreements, and the performance of all other acts and
28 procedures authorized by this chapter.

29 (b) In addition to other authority granted by this chapter,
30 the board may exercise the authority granted to the governing body

1 of an issuer with regard to the issuance of obligations under
2 Chapter 1371, Government Code.

3 SECTION 3. Section 15.978, Water Code, is amended by adding
4 subsection (c-1) to read as follows:

5 (c-1) Notwithstanding other provisions of this chapter, the
6 board may sell to the Texas Water Resources Finance Authority or
7 to the state utilities reliability fund any political subdivision
8 bonds purchased with money in the state utilities reliability
9 revenue fund and may apply the proceeds of a sale in the manner
10 provided by Chapter 40 of this title.

11 SECTION 4. As soon as practicable after the effective date
12 of this Act, the lieutenant governor and the speaker of the house
13 of representatives shall appoint the initial appointive members of
14 the State Utilities Reliability Fund Advisory Committee as
15 provided by Section 39.006, Water Code, as added by this Act.

16 SECTION 5. (a) Not later than September 1, 2022, the State
17 Utilities Reliability Fund Advisory Committee shall submit
18 recommendations to the Texas Water Development Board on the rules
19 to be adopted by the board under Sections 39.007(a)(1) and (2),
20 Water Code, as added by this Act.

21 (b) Not later than the later of the 90th day after the date
22 the Texas Water Development Board receives the recommendations
23 described by Subsection (a) of this section or March 1, 2023, the
24 board shall propose rules under Section 39.007, Water Code, as
25 added by this Act.

26 SECTION 6. The Texas Water Development Board shall post the
27 information described by Section 39.008(b), Water Code, as added
28 by this Act, on the board's Internet website not later than March
29 1, 2022.

30 SECTION 7. This Act takes effect on the date on which the

1 constitutional amendment proposed by the 87th Legislature, Regular
2 Session, 2021, adding Sections 49-d-15 and 49-d-16, Article III,
3 Texas Constitution, creating the state utilities reliability fund
4 and the state utilities reliability revenue fund takes effect. If
5 that amendment is not approved by the voters, this Act has no
6 effect.